



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 18, 2008

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Introduction Of Medical Marijuana Permanent Ordinance

RECOMMENDATION: That Council:

- A. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending the Municipal Code by Adding Chapter 28.80 Establishing Regulations and Procedures for Medical Cannabis Dispensaries; and
- B. Refer the question of the proper amount of the Medical Marijuana Dispensary permit fee to the Council Finance Committee for comment prior to Council's adoption of the necessary fee resolution.

DISCUSSION:

On October 3, 2007, Council adopted an Interim Zoning Control Ordinance Relating to Medical Marijuana Dispensaries. That Ordinance suspended the opening of any new medical cannabis dispensaries within the City until a permanent medical cannabis dispensary ordinance could be drafted, reviewed, and adopted. Since that time, Staff, the City Attorney's Office, the Planning Commission and the Ordinance Committee have worked on a proposed permanent ordinance. The Ordinance Committee met on December 4, 2007, and asked for the Planning Commission's recommendations on certain items. The Planning Commission made recommendations on February 7, 2008, and Ordinance Committee met on February 26 and March 4, 2008 to make final recommendations to City Council.

The proposed ordinance uses three sets of tools to reduce neighborhood conflicts that have arisen with Medical Cannabis Dispensaries: locational restrictions, operational restrictions, and a Performance Standard Permit, the application for which is to be reviewed by the Staff Hearing Officer.

REVIEWED BY: _____ Finance _____ Attorney

Agenda Item No. _____

Locational Restrictions

The ordinance proposes to limit dispensaries as follows:

1. Allowed in the C-2 and C-M Zones
2. Allowed on Outer State Street, between Calle Laureles and Calle Real
3. Allowed on Milpas Street, from Carpinteria Street to Canon Perdido Street
4. Allowed within 1000 feet of Cliff Drive and Meigs Road
5. Prohibited within 500 feet of schools, parks or other dispensaries
6. Prohibited on State between Cabrillo Blvd. and Arrellaga Street.

A majority of the Planning Commission was opposed to locational restrictions, and thought that dispensaries should be allowed wherever pharmacies are allowed, but the Ordinance Committee thought that the proposed locational restrictions were appropriate. Both the Planning Commission and the Ordinance Committee thought that dispensaries should not be allowed in the M-1 Zone, as that zone should be reserved for industrial uses. Although a prohibition based on proximity to residential zones or uses was discussed by the Planning Commission and the Ordinance Committee, such a prohibition is not proposed.

It is proposed that existing dispensaries that are authorized by the Interim Ordinance (100 E. Haley Street, 26 Parker Way, and 3216 State Street) would be allowed to remain, and would become nonconforming uses, which could not be expanded (regulations regarding nonconforming uses are contained in SBMC §28.87.030). In addition, there may be one or two existing dispensaries that are now asserting that they were open and legally operating prior to August, 14, 2007. However, the legality of these operations is in dispute, and the City Attorney's Office may need to initiate code enforcement litigation. As a result, Council may wish to set a time limit on the nonconformancy, such as 3 or 5 years. If deemed appropriate, Council may want to add this limitation to Section 2 of the ordinance.

Operational Restrictions

The originally-proposed ordinance contains 17 categories of operational restrictions, including: criminal history, background checks, dispensary size, consumption restrictions, and site management. All are intended to reduce possible ancillary effects of cannabis dispensaries, such as robberies, loitering and odor. A number of operational restrictions were discussed. Most of those were found to be unnecessary, and were deleted. Of the operational restrictions that remain, the one that was most discussed was the consumption restrictions. Both the Planning Commission and the Ordinance Committee did not want consumption on site, except for employees who were also patients. The proposed ordinance allowed these employees to consume medical cannabis by oral consumption (i.e. eating), but not by smoking or vaporization. The Ordinance Committee recommends the operational restrictions as proposed.

Permitting Process

Initially, the Ordinance Committee reviewed several possible permitting methodologies, from no permit required, to a Performance Standard Permit heard by the Staff Hearing Officer to a Conditional Use Permit heard by the Planning Commission. The Ordinance Committee and the Planning Commission recommend a Performance Standard Permit as the appropriate level of discretionary review for cannabis dispensaries.

The issue of a validity period for the dispensary permit was discussed at length by both the Planning Commission and the Ordinance Committee. Initially, the proposed ordinance contained a three year validity period, with a renewal by the Staff Hearing Officer being required in order for a dispensary to continue to operate. After some discussion, Staff felt that it would be more appropriate to allow the permit to remain valid as long as the location and operator remained the same (i.e. the permit is not moveable to a different location, and it is not transferable to a new owner), and recommended against a specific validity period. If a dispensary is in violation of any of the requirements, then its permit could be suspended or revoked by the Planning Commission after a required written notice and hearing. Both the Planning Commission and the Ordinance Committee recommend this approach. The ordinance does not provide for an appeal of a suspension or revocation beyond the decision of the Planning Commission.

BUDGET/FINANCIAL INFORMATION:

New dispensary permit applications would be processed by Planning Division Staff, and the few remaining dispensaries would become nonconforming, and would not be required to process Performance Standard Permits; unless the Council opts to add a limitation to the “grandfather” provision, as suggested earlier in this report. Therefore, the Community Development Department does not anticipate a significant fiscal impact at this time.

The Ordinance Committee recommended that the application fee for the dispensary permit and a possible annual renewal fee be forwarded to the Finance Committee for review and recommendation to Council. The Ordinance Committee members thought that both the application fee should recover the full cost of the application process, and the annual renewal fee should cover the full cost of either the services provided to the dispensaries by the Police Department, and/or services provided to neighbors by the Police Department as a result of the presence of the dispensary.

ATTACHMENTS:

Allowed Medical Dispensary Locations:

1. Map: Citywide
2. Map: Outer State Street
3. Map: Milpas Street
4. Map: Mesa - Cliff Drive/Meigs Road
5. Map: Downtown

PREPARED BY: Danny Kato, Senior Planner

SUBMITTED BY: Dave Gustafson, Acting Community Development Director

APPROVED BY: City Administrator's Office









